

APR 22 2003

Not for Publication

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

HAZEL KOSCHEL,

Plaintiff - Appellant,

v.

**BOARD OF TRUSTEES OF THE
CALGARY BOARD OF EDUCATION
SCHOOL DISTRICT NO. 19,**

Defendant - Appellee,

and

**ESTATE OF BARBARA CLEMENT;
THOMAS DAVID MACDONALD,**

Defendants.

No. 02-15224

D.C. No. CV-01-02247-SBA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Saundra B. Armstrong, District Judge, Presiding

Argued and Submitted March 31, 2003
San Francisco, California

Before: **B. FLETCHER, KOZINSKI** and **TROTT**, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

The district court did not abuse its discretion in dismissing on grounds of forum non conveniens. Because Koschel is a foreign plaintiff, her selection of a California forum is entitled only to limited deference. Lueck v. Sundstrand Corp., 236 F.3d 1137, 1145 (9th Cir. 2001). The district court reasonably determined that, in light of this standard, the private- and public-interest factors favor dismissal.

The private interest factors point strongly to an Alberta forum. The parties are residents of Alberta, and most of the key witnesses—including many not under the parties' control—are also from Alberta. As to potential witnesses from California, Alberta's commission procedure will allow Koschel to secure their testimony without significant hardship. Finally, the prospect of joining the BLM as a defendant has some relevance but, in light of its speculative character, the district court did not abuse its discretion in attaching little weight to it.

The court also adequately evaluated the public interest factors. Alberta's interest in adjudicating a dispute among its residents is substantial, and the district court did not abuse its discretion in determining that this interest predominated. The court was not required to make a choice of law determination because no statute compels venue in the United States and the other factors independently

justify dismissal. See Leetsch v. Freedman, 260 F.3d 1100, 1103 n.1 (9th Cir. 2001).

AFFIRMED.